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Message Text

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ORIGIN EB-07

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DRAFTED BY EB/AN:AJRIMAS:DAP
APPROVED BY EB/OA:MHSTYLES
CAB - M. PETT
L/EB - P. MICKEY
AF/W - W. RAMSAY
EB/AN - R. BROWN
---------- 012955
R 092209Z APR 76
FM SECSTATE WASHDC
TO AMEMBASSY ABIDJAN
INFO AMEMBASSY DAKAR
AMEMBASSY MONROVIA

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E.O. 11652: N/A

TAGS: EAIR, IV

SUBJECT: CIVAIR: BILATERAL WITH IVORY COAST

REF: ABIDJAN 3243

1. DEPARTMENT APPRECIATES EMBASSY'S REPORT CONCERNING MEETING WITH SAVANE. WE WILL ENDEAVOR TO CONTINUE MOMENTUM TOWARD REACHING AGREEMENT. ARE THERE ANY CONCRETE INDICATIONS SAVANE WILL LEAVE OFFICE SOON? HOPEFULLY HE WILL REMAIN UNTIL NEGOTIATIONS ARE RESUMED.

2. THERE DOES APPEAR TO BE SOME CONFUSION IN PERCEPTION OF OUTSTANDING ISSUES BETWEEN US AND SAVANE. WHEN WE SPOKE OF CAPACITY DURING IVORY COAST TALKS, WE REFERRED TO THE NUMBER OF SEATS AVAILABLE TO CARRY
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PASSENGERS BETWEEN ABIDJAN AND A POINT OR POINTS ON THE

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ROUTES TO BE DEFINED IN THE AGREEMENT. WE BELIEVE THE IVORIANS CLEARLY UNDERSTOOD THIS CONCEPT DURING THE TALKS. THEIR OBJECTION WAS ALLOWING THE AIRLINES OF BOTH COUNTRIES TO HAVE "A FAIR AND EQUAL OPPORTUNITY" TO OPERATE THEIR ROUTES (I.E. WITHOUT CAPACITY LIMITATIONS IMPOSED BY GOVERNMENTS). THE IVORIANS INSISTED THAT SOME PROVISION MUST BE INSERTED IN THE AGREEMENT TO EXPRESS THE

PRINCIPLE THAT THE TOTAL NUMBER OF SEATS OFFERED IN THE MARKET MUST BE APPORTIONED EQUALLY BETWEEN THE TWO COUNTRIES' AIRLINES. WHILE WE ARE UNWILLING TO MAKE FURTHER CONCESSIONS WITH REGARD TO OUR PROPOSAL FOR THE CAPACITY CLAUSE; WE ARE WILLING TO ADDRESS THE ISSUE IN A SIDE UNDERSTANDING. IN VIEW OF US LEGAL REQUIREMENTS TO GENERALLY DISCLOSE TO THE PUBLIC AGREEMENTS NEGOTIATED BY THE EXECUTIVE BRANCH WITH FOREIGN GOVERNMENTS, WE WOULD BE RELUCTANT TO ENTER INTO ANY SECRET SIDE UNDERSTANDINGS.

3. IN REGARD TO ARBITRATION, OUR FINAL POSITION WAS AS FOLLOWS: WE WOULD HAVE TO REACH AGREEMENT WITH THE IVORY COAST CONCERNING THE ISSUES TO BE SUBMITTED TO AN ARBITRATION PANEL. IF NO AGREEMENT IS REACHED "THE PROVISIONS OF ARTICLE 15 WILL APPLY" (I.E. EITHER CONTRACTING PARTY MAY NOTIFY THE OTHER PARTY OF ITS INTENTION TO TERMINATE THE AGREEMENT). IF AN AGREEMENT ON THE ISSUES WAS REACHED, THE UNITED STATES COULD ACCEPT THE DECISION OF THE ARBITRAL TRIBUNAL AS FINAL. THE IVORIAN DELEGATION MAINTAINED THAT IT WAS UNNECESSARY FOR BOTH PARTIES TO REACH PRIOR AGREEMENT CONCERNING THE ISSUES TO BE SUBMITTED TO ARBITRATION SINCE THESE ISSUES, HAVING ARISEN WITHIN THE CONTEXT OF THE BILATERAL AGREEMENT, WOULD BE OBVIOUS. THEY PROPOSED THAT IN THE EVENT A PARTY DID NOT IMPLEMENT THE DECISION OF THE ARBITRAL TRIBUNAL, "THE PROVISIONS OF ARTICLE 15 WILL APPLY."

4. DEPARTMENT AGREES WITH EMBASSY THAT IT WOULD NOT BE PRODUCTIVE TO SEEK THIRD PAA FREQUENCY AT THIS TIME. KISSINGER

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